

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:) METHOD AND SYSTEM FOR
MARY I. GRILLIOT et al) PROVIDING PERIMETER
Serial No. 10/619,161) SECURITY
Filed July 14, 2003)
) Group Art Unit 2134
)
) Examiner Jacob Lipman

APPELLANTS' REPLY BRIEF

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Commissioner for Patents
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Sir:

In response to the Examiner's Answer dated May 1, 2009, Applicants reply as follows.

REPLY

The Examiner's Answer fails to because it seeks to somehow infer the limitations recited in the rejected claims by pointing to language in Larson et al that falls far short of the recited limitations.

More specifically, in response to Applicants' argument that Larson fails to show or suggest the step of entering a photographic image of each authorized person into a database which is maintained in a portable computer or handheld computer, (top of page 7 of Applicants' Brief on Appeal), the Examiner asserts that paragraph 71 discloses "that

the card reader displays the vendors photographs to check against the person presenting the card." However, there is nothing in this assertion about maintaining a database photographic images of each authorized person in the card reader. In this regard, clearly there is a difference between displaying a photograph versus maintaining a database of photographic images. Thus, the assertion by the Examiner does absolutely nothing to address Applicants' argument. Furthermore, when read in the entire context of the surrounding paragraphs, it appears that the card reader transmits the data from the read card to the centralized database maintained in the administrative entity 74 (see paragraphs 0068 and 0069) which then transmits the vendor photograph back to the card reader for display. To the extent that the Examiner is relying on inherency, the Examiner has completely failed to establish inherency as required in MPEP §2112 IV (Stating that the "Examiner must provide rationale or evidence tending to show inherency"; that "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic,"; and that "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.")

In response to Applicants' second argument that Larson et al fails to disclose or suggest that the portable or handheld computer compares the sent data read from its identifier devices to a database containing information of each authorized person, let alone to such a database that is maintained in the portable or handheld device (page 7 of Applicants' Brief on Appeal), the Examiner again relies on paragraph 71 by providing the

following quote: "for cards that are read, determining whether there is a corresponding user or employee within the system database." However, there is absolutely nothing in this quote to indicate that it is the card reader that is "determining whether there is a corresponding user or employee within the system database", let alone that it is the card reader that is making the comparison to a database maintained in the card reader, as opposed to the administrative entity 74 making the comparison to the centralized database maintained therein. Thus, as with the Examiner's Answer to Applicants' first argument, the Examiner's Answer to Applicants' second argument points to language that falls far short of the claimed limitations. Again as noted above, to the extent the Examiner is relying on inherency, the Examiner fails to meet any of the standards set forth in MPEP §2112 IV.

In response to Applicants' argument that there is nothing in paragraph 75 to indicate or even imply that the databases are maintained in the handheld reader devices 30 of Larson et al (page 8 of Applicants' Brief on Appeal), the Examiner points to a discussion in paragraph 75 of distributed devices and databases at the sponsored locations that are in addition to a central computer system and associated database. However, there is nothing in the vague statements of paragraph 75 to indicate that a database of each authorized person is maintained in the handheld card readers 30 of Larson. Indeed, paragraph 75 makes no mention of the handheld devices, and only specifically mentions a card reader station having an associated computer and positioned at a security entrance (thus not handheld) and only notes that this stationed card reader could be configured to store activity data pertaining to traffic through the secured entrances, with absolutely no mention whatsoever that a database containing the photographic image of each authorized person

could be maintained in the stationed card reader, let alone in a handheld card reader device 30.

The Examiner also points to the disclosure in paragraph 76 of Larson that it would be desirable to periodically synchronize the distributed systems with the central administrative system "to keep the central database current." (emphasis added) The undersigned is uncertain how pointing to the downloading of information to a central database supports an argument that it is the handheld devices 30 that maintains such a database.

The Examiner also makes the naked assertion that "the distributed system of Larson reads on a portable or handheld computer." but provides no explanation as to how the distributed system described in Larson (which includes multiple devices, including devices that are stationed at security stations, could somehow be characterized as "a portable or handheld computer.") On its face, the assertion makes no sense.

Finally, the Examiner asserts that "even if the language of the claim were seen as limiting enough to only read on the portable card readers of Larson, the card readers maintain the database in that the database is modified based on activity data that they transmit. This keeps the database current and maintains it." There are at least two problems with this assertion. First, the Examiner provides no explanation as to why or how the claim language could be seen as reading on anything other than the portable card readers 30 disclosed in Larson et al. In this regard, the Examiner has pointed to nothing in Larson et al that is portable or handheld other than the handheld card readers 30. Second, the assertion attempts to transform the clear language of the claims requiring that the

database be maintained in a portable or handheld computer into a recitation that the database is maintained by a portable or handheld computer. This attempt to transform the clear language of the claims only highlights the shortcomings of the rejections.

In view of the foregoing, the rejections should be withdrawn and the case allowed.

Respectfully submitted,

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By


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